IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.Rev.Pet.No. 998 of 1998()

CC.85/1994 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD
CRA.62/1996 of SESSIONS COURT, PALAKKAD

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REVN. PETITIONER:

KABEER,
S/O. CHINNAPPA,
PARICHIRAMKADU,
KUZHALMANNAM.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 4983/1998 IN CRL. R.P. NO. 998 OF 1998

DISMISSED

06.03.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 998 OF 1998

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Dated this the 6th day of March 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 341, 294(b) and 353 of the Indian Penal Code and sentenced to pay a fine of Rs.250 each for the offence under section 341 and 294 (b) IPC and in default to undergo simple imprisonment for 15 days each and also to undergo rigorous imprisonment for 6 months for the offence under Section 353 IPC. The prosecution case is that on 12.12.1993 the accused abused the Head Constable of Kuzhalmannam Police Station who was deputed for duty at the accident spot wherein a tanker lorry involved in the accident was lying overturned with leak of the diesel tank of the lorry and that PW1 prevented the accused from proceeding towards the lorry with a lighted beedi on his lips and annoyed by the action of the defacto complainant, he caught hold of the uniform shirt collar of the defacto complainant and uttered filthy words at him.

2. The evidence adduced consisted of the testimony of PWs 1 to 10 and Exhibits P1 to P4 and MO1. The material evidence in the matter consisted of the testimony of PW1 the defacto complainant and

PW2 the police constable who was along with PW1. PWs 3 to 6, other witnesses to the occurrence turned hostile. On a consideration of the evidence adduced in the matter both the courts below found that the evidence of PWs 1 and 2 stand unspiked. I find that the matter is in the realm of appreciation of evidence alone. I find no reason to deviate from the findings of the court below. The conviction is confirmed.

3. The counsel for the revision petitioner has pleaded for leniency pointing out the fact that the incident had taken place in 1993 i.e., years back. In the circumstances, the sentence is modified to a fine of Rs. 5,000/- for the offence under section 294(b) IPC and in default to undergo simple imprisonment for one month and the sentence for the offence under section 353 is also modified to a fine of Rs. 5,000/- and in default to undergo simple imprisonment for one month. No separate sentence is awarded for the offence under 341 IPC. The revision petitioner is granted one month's time to pay the fine amount. He shall appear before Judicial First Class Magistrate -I, Palakkad on **18.04.2007**.

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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